

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1834 OF 2004

The State of Maharashtra & Anr. .. Petitioners.

V/s.

1. Shri Dhananjay N. Kalange & Ors. .. Respondents.

Mrs.M.P.Thakur, AGP for the Petitioners.

Mr.S.S.Pakale for the Respondent No.1.

Ms.Kranti Hiwarale i/by P.G.Lad for Respondent No.2.

**CORAM : F.I. REBELLO AND
R.M. SAVANT, JJ.**

DATED : 22nd MARCH, 2007.

P.C.:

. Rule. Heard forthwith.

2. The petitioner -State has impugned the order dated 23.01.2002 passed by the College Tribunal, Shivaji University, Kolhapur, whereby the termination of the respondent No.1 has been set aside and consequential directions have been issued. From the impugned order, it is clear that the termination appears to have been stayed and the respondent No.1 was allowed to continue in service.

3. The only contention urged before us by the

learned counsel for the petitioner is pursuant to the circular of 1st of March, 2000 of the State Government it was not open to the management to fill in any post. We have perused the said circular of 1st of March, 2000, which is in respect of the other governmental bodies. The Arts, Science and Commerce College at Palus, Dist. Sangli is neither a government body nor a corporation nor it falls within the meaning of 'other authority' or State under Article 12 of the Constitution of India. What happens is that, it receives grant-in-aid from the State but that would not bring the said institution within the purview of the said circular of 1st of March, 2000. The subsequent resolution is only a continuation of the first government resolution. From the record it is clear that the petitioner was appointed on 22nd June, 2000 as an open candidate against a post of full time lecturer. The petitioner at the relevant time has passed his NET/SET examinations and his appointment was approved by the University.

4. Considering the above position, we are not inclined to interfere with the order of the Tribunal in exercise of our extra ordinary jurisdiction.

5. We, however, make it clear that there was a dispute as to whether the respondent No.1 was appointed

against an open category seat or reserved category seat. That has to be answered. In view of this contention, we direct that the consequential reliefs, specially regarding backwages, insofar as the petitioners are concerned, would be subject to the law in force in that behalf. With the above observation, the Rule is made partly absolute accordingly with no order as to costs.

(F.I.REBELLO, J.)

(R.M.SAVANT, J.)